



PUBLIC PETITION NO.

PE01488

Name of petitioner

Pete Gregson on behalf of Kids not Suits

Petition title

Whistleblowing in local government

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to support the introduction of staff whistle-blower hotlines to report mismanagement in Scottish local authorities, with reports overseen by councillors from each party.

Action taken to resolve issues of concern before submitting the petition

- 7th October 2012 – I sent request to Edinburgh Council Leader to set up whistle-blower hotline for Council staff - he said he would look into it and get back to me when he had any progress to report.
- 6th Dec – I submitted draft Unison motion calling for hotline which reports to elected members.
- 7th January 2013 – I lodged a Petition to Edinburgh's Petitions Committee seeking the same, entitled "A Safer Way to Report Edinburgh Council Mismanagement"
- 18th April – Committee asked me to present my Petition, because it had received more than 500 signatures. They recommended the Council Corporate Management Team (CMT) evaluate the proposal.
- 11th June – My Petition was deemed inappropriate by CMT, who submitted their own proposal to Council's Policy & Strategy Committee for a helpline instead. Committee accepted my claim that the legality of the new policy required further consideration; matter is now remitted to 29th August.

Other actions

- 21st Feb – I proposed same whistleblowing system to Jo Swinson MP, Employment Minister, on account of her on-going review of the 1998 Public Interest Disclosure Act. The Minister indicated proposal could be considered in summer 2013's call for evidence.
- 14th June- I approached Derek Mackay MSP, Minister for Local Government, with request that guidance to Councillors on getting involved with operational matters be reviewed. I await a reply.
- I have also lobbied Gavin Brown MSP, Kezia Dugdale MSP, Alison Johnstone MSP, Sarah Boyack MSP, Marco Biaggi MSP, and Margo McDonald MSP; Mike Crockart MP, Sheila Gilmore MP and Ian Murray MP (in his role as shadow minister for Employee Relations). Thus far, Alison Johnstone, Gavin Brown and Ian Murray have been supportive.

Petition background information

PETITION PROMOTER

The petition is being promoted under the auspices of “Kids not Suits”, a campaign group of parents and citizens seeking better use of public funding by those whom we elect. Its core concerns:

- Money wasted in unnecessary bureaucracy and mismanagement could be better spent on averting school closures and reducing class sizes.
- Funding aimed at tackling children’s deprivation can get siphoned off elsewhere.
- Cash which should be spent on the front line gets lost in the back office- and our kids are the biggest losers.

WHISTLEBLOWING MEASURES IN SCOTLAND

Around 40% of UK local authorities have a hotline; up to 10% have a "helpline". The petitioner is aware of only one Scottish public body with measures in place: the NHS, who have a helpline. The National Confidential Alert Line for NHS workers was launched in April and was to allow staff in Scotland to raise their concerns about bad practice in their workplace. But it has been branded “a waste of time” by campaigners.

Dr Kim Holt, from Patients First, said: “It is a complete waste of time. We have tried it out a few times. The people who called found it was hopeless. People who call are being told ‘tell your manager, speak to your union’. They don’t have any power, so all they can do is advise you.”. Kids not Suits think a hotline reporting to NHS Board members would have been more effective.

This petition calls for each Council to have a hotline - not a helpline - as defined by the British Standards Whistleblowing Arrangements Code of Practice (available at <http://shop.bsigroup.com/forms/PASs/PAS-1998/>). A hotline passes reports back to a designated person; a helpline offers advice on whether and how employees can raise a whistleblowing concern.

THE PETITION

The call, for the Scottish Parliament to order that every Scottish local authority provide staff with a whistleblowing hotline to report mismanagement, seeks to address concerns arising across Scotland about public interest disclosures. In order to prevent victimisation and cover-ups, Councillors need to consider staff reports directly. The adversarial nature of party politics, where no one party will allow the truth to be buried if they can use it to their electoral advantage, would ensure whistle-blowers’ disclosures could never be swept under the carpet.

HOW HOTLINES SHOULD OPERATE

An independent body should run the hotline and every Council worker should learn about it as part of their induction training. There are several commercial bodies providing whistleblower hotline services and a Council might spend up to £20,000 pa on a scheme.

Each Council’s Audit or Risk Committee should serve to oversee their whistle-blower hotline. A sub-committee comprising of a representative from each political party should consider staff hotline reports. If all agree that a report indicates a risk worthy of public concern, it should go on the Council Risk Register and become public. The Committee would then ask the Monitoring Officer for a report on the risk which would subsequently be made public, too.

However, before that report gets to Committee, the whistle-blower should have the right to comment on it. The convener would check these comments and the Councillors would need to decide at Committee who to believe.

Clearly, many disclosures will be human resource matters with no reputational risk. The summit of Councillors would, without recourse to the Risk Register, refer such staff reports onto the Monitoring Officer for action, as per existing disclosure arrangements. If they cannot agree about whether a report represents a risk or not, any one Councillor would be free to cascade the information to their own group members, and choose to

subsequently table a motion to Committee for debate. If it was passed, it would then follow the Risk Register procedure.

To ensure whistle-blowers aren't victimised, a chief risk officer needs to be appointed, whose job would be to train staff on disclosure arrangements, protect them and ensure investigations don't turn into witch-hunts.

WHY IT'S NEEDED

New legislation is required insisting that all authorities put in place these whistleblowing arrangements as a condition of receiving revenue support grant from the Scottish Government. The measure would avoid wasteful expenditure and allow both corrupt practices and grandiose schemes to be exposed by Council workers who may know more than senior management about true cost-benefit ratios. Public money wasted on litigation at Employment Tribunals and to compensate unfairly dismissed staff is not funding that is being used wisely.

Good intelligence is often the best defence against fraud and misleading Council reports and there is no better source of this information than from the vast majority of employees, who are honest and ethical. Corrupt and illegal behaviour often goes undetected because employees, aware these things are going on, fear the consequences to themselves and others of reporting them through existing internal channels.

Research suggests that employees place greater trust in a whistleblowing procedure which is not part of their employing body. An independent whistleblowing hotline not only provides a mechanism for exposing systemic fraud, it also serves as a useful catalyst for capturing other corrupt practices, such as discrimination and bullying, which can have an equally debilitating effect on council performance and reputation.

The Institute of Business Ethics noted in their "Speak Up Procedures" (2007) the company practise whereby important whistle-blower reports are escalated to corporate Audit & Risk Committees. It appears that big finance companies don't let hotlines report to senior management but to Board members. Obviously managing risk is their business and if it's good enough for them, it should be good enough for the public sector too.

Councillors need to have greater oversight of local government operations. However, many Council Codes of Conduct forbid staff from informing elected members of problems; member/officer protocols state all communications should be routed through senior management. The Scottish Government's Councillor's Code of Conduct (2010) tells Councillors in section 3.4:

"Whilst both you and Council employees are servants of the public, you have separate responsibilities: you are responsible to the electorate but the employee is responsible to the Council as his or her employer. You must also respect the different roles that you and an employee play. Your role is to determine policy and to participate in decisions on matters placed before you, not to engage in direct operational management of the Council's services; that is the responsibility of the Council's employees. It is also the responsibility of the Chief Executive and senior employees to help ensure that the policies of the Council are implemented."

This clause has allowed numerous instances whereby senior managers write slanted reports, cover up mismanagement or are otherwise economical with the truth. Ordinary Council staff who know enough to correct misconceptions are muzzled by protocols which threaten dismissal if they discuss their concerns with elected members. By giving Councillors the facility to listen to hotline reports, power can be returned to those who are elected to serve the public interest.

By using this very natural curiosity of politicians to get to the bottom of things, risks on the operational front can be significantly reduced. And not just the risk to the Council, but the risk to staff from witch-hunts too. Our approach gives politicians the opportunity to properly helm dangerous operations.

The Council committee system depends on senior managers' reports for the knowledge the Councillors need to pass a recommendation, and it takes a wily Councillor to raise a

sound objection. Furthermore, investigations into mismanagement are invariably coloured by the need to protect officer's reputations. Every politician's ability to take good decisions can be thus compromised.

The Councillor's Code of Conduct weakens opportunities for our civic leaders to become aware of malpractice, or the ill-considered outcomes of poor officer recommendations. Politicians should not be using the Code to avoid taking responsibility to implement strong whistleblowing measures. Parliament needs to clarify that the Code does not exclude Councillors from taking sharper operational oversight on staff reports.

Policy is one thing. Good government is another. If we elect politicians who can't oversee operational matters effectively, one might think they might as well not be there at all. And when politicians fail to hold our bureaucrats to account, it only erodes our confidence in democracy.

Unique web address

<http://www.scottish.parliament.uk/GettingInvolved/Petitions/whistleblowing>

Related information for petition

More information can be found at www.kidsnotsuits.com

Do you wish your petition to be hosted on the Parliament's website to collect signatures online?

YES

How many signatures have you collected so far?

1

Closing date for collecting signatures online

16 / 08 / 2013

Comments to stimulate online discussion

How do you think staff reports on mismanagement in publicly funded bodies should be addressed? How should reports be escalated? How best to prevent victimisation that may result? Who should deal with reports- officers or politicians? Should anonymous disclosures be allowed?

Most Councils have Member- Officer Protocols in place which forbid communication between staff and councillors on matters which may (even incidentally) relate to their job. Does this mean Council staff have less access to democracy than the ordinary citizen?

Should councillors take on the responsibility of investigating malpractice?

Do you think they have forgotten that they are the masters and the officials the servants?

